



# MIAMI BEACH

## City Commission Meeting

### ADDENDUM MATERIAL

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive

May 10, 2006

Mayor David Dermer  
Vice-Mayor Saul Gross  
Commissioner Matti Herrera Bower  
Commissioner Simon Cruz  
Commissioner Luis R. Garcia, Jr.  
Commissioner Jerry Libbin  
Commissioner Richard L. Steinberg

City Manager Jorge Gonzalez  
City Attorney Jose Smith  
City Clerk Robert E. Parcher

Visit us at [www.miamibeachfl.gov](http://www.miamibeachfl.gov) for agendas and video "streaming" of City Commission Meetings.

#### ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

#### ADDENDUM

#### C4 - Commission Committee Assignments

- C4E Referral To The Neighborhoods/Community Affairs Committee - Request To Dedicate Fire Station No. 4 To Leonard "Lenny" Rubin, Who Died In The Line Of Duty In A Building Fire At The Old Carillon Hotel On March 8, 1962.  
(Requested by Commissioner Luis R. Garcia, Jr.)
- C4F Referral To The Neighborhoods/Community Affairs Committee Regarding A Discussion On The Serving Of Foie Gras In The City Of Miami Beach.  
(Requested by Richard L. Steinberg)

**C7 - Resolutions**

- C7P A Resolution Approving And Authorizing The City Manager To Issue A Certification Of Consistency With The City's Consolidated Plan To Florida International University, To Apply For Funds Provided Directly By The U.S. Department Of Housing And Urban Development, To Fund The Community-Based Health Promotion And Health Education Program "HealthPEP!", Targeting Low-Income Elderly Individuals In Miami Beach, To Be Located At The Mount Sinai Medical Center, (Miami Heart Institute Campus).

(Neighborhood Services)

**R9 - New Business and Commission Requests**

- R9G Discussion And Referral Regarding Proposed Amendment Allowing Cigar Vendors On Ocean Drive.  
(Requested by Commissioner Luis R. Garcia, Jr.)
- R9H Discussion Regarding Allowing Dogs At Outdoor Cafes.  
(Requested by Commissioner Richard L. Steinberg)
- R9I Discussion Regarding A Resolution Urging Governor Jeb Bush To Veto House Bill 603 Which Preempts The Stricter Requirements In Miami-Dade County Ordinance No. 06-40 With Regard To The Provision Of Fuel During A Local State Of Emergency.  
(Requested by Commissioner Richard L. Steinberg)
- R9J Discussion Regarding A Progress Report On The Ad Hoc Condominium Reform Taskforce.  
(Requested by Commissioners Luis R. Garcia, Jr. & Matti Herrera Bower)



# MIAMI BEACH

C: HF  
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OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager  
Mayor and City Commissioners

FROM: Luis R. Garcia, Jr., Commissioner

DATE: May 4, 2006

SUBJECT: Agenda item for May 10, 2006

Please place on the May 10, 2006 Commission meeting agenda a referral to the Neighborhoods committee. I am requesting that we dedicate fire station #4 to Leonard "Lenny" Rubin. Lenny Rubin died in the line of duty in a building fire at the old Carillon Hotel on March 8, 1962.

RECEIVED  
2006 MAY -5 11:10 AM  
CITY MANAGER'S OFFICE  
BY \_\_\_\_\_

If you have any questions, please feel free to contact my secretary, Sandra Meyer at x 6765.

LRG/sm

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager  
FROM: Richard L. Steinberg, Commissioner

RLS/mt

DATE: May 5, 2006

SUBJECT: Consent Agenda Item - Referral to Neighborhoods/Community Affairs Committee  
Regarding a Discussion on the Serving of Foie Gras in the City of Miami Beach

I would like to request a referral to the Neighborhoods/Community Affairs Committee regarding a discussion on the serving of foie gras in the City of Miami Beach considering the inhumane treatment of ducks or geese. Please find attached an article regarding foie gras in the City of Chicago. There is also additional information on foie gras at the following website <http://cbs4.com/video/?id=14267@wfor.dayport.com>.

If you have any questions or comments, please feel free to contact my Aide, Ms. Marlene Taylor at ext. 6087.

RLS/mt

CITY MANAGER'S OFFICE

2006 MAY -5 PM 3:35

RECEIVED

FOR IMMEDIATE RELEASE:

April 26, 2006

CONTACT:

Erin Williams: 301-721-6446

## Chicago Won't Swallow Foie Gras Cruelty

The Humane Society of the United States praises Chicago City Council

for ending sale of notoriously cruel "delicacy"

WASHINGTON (April 26, 2006)—Today, the Chicago City Council passed an ordinance prohibiting the sale of foie gras. Foie gras is a "delicacy" made from the diseased, fattened liver created by force-feeding ducks or geese, one of the most inhumane factory farming practices. The Humane Society of the United States (HSUS) praised the City Council for passing the measure and urged the Illinois state legislature to pass a similar bill currently pending.

Alderman Joe Moore (D-49<sup>th</sup> Ward) authored and championed the animal welfare bill. In October 2005, it gained the unanimous support of the Chicago City Council Committee on Health before entering the Council for a vote.

According to Alderman Moore, "We in the Chicago City Council can do our part to discourage this barbaric agricultural practice by outlawing its sale within our city. The fewer restaurants that serve this product of animal torture, the fewer animals who will be subject to this unspeakable cruelty."

By passing this landmark legislation, Chicago joins California and more than a dozen countries—including the United Kingdom, Denmark, Finland, Germany, Israel, Norway, Poland, Sweden and Switzerland—in taking legislative action on the issue of foie gras and cruel force-feeding practices.

And in 2005, the Illinois State Senate unanimously passed similar legislation banning foie gras production—Senate Bill 413 authored by Senator Kathleen J. Wojcik (R-28<sup>th</sup> District). The bill is awaiting passage by the Illinois House of Representatives this year.

"The HSUS commends the Chicago City Council for passing this humane ordinance and halting the sale of one of the most cruel and indefensible factory-farmed products," explained Michael Markarian, executive vice president of The HSUS. "Alderman Moore and Chicago lawmakers have taken the lead in ending the abuse of ducks and geese for a mere table treat."

The HSUS actively supported the measure since its inception, mobilizing its Chicago-area members and taking out full-page ads in prominent newspapers, including the Chicago Tribune, Chicago Sun-Times, and The Catholic New World.

The production of foie gras is one of the most notorious practices in modern agribusiness. To create the unnaturally fattened liver that defines the product, factory farm producers force-feed birds for two to four weeks, shoving a metal tube down their throats two or three times each day. This can cause painful bruising, lacerations, sores, and even organ rupture. Due to this abnormal diet, the birds' livers become diseased and can enlarge up to ten times the normal size, making it difficult for the birds to move comfortably. Often, the birds are intensively confined in filthy warehouses, crammed in small cages where they cannot even turn around or spread their wings.

The Humane Society of the United States is the nation's largest animal protection organization with 9.5 million members and constituents. The HSUS is a mainstream voice for animals, with active programs in companion animals, disaster preparedness and response, wildlife and habitat protection, animals in research, equine protection and farm animal welfare. The HSUS protects all animals through education, investigation, litigation, legislation, advocacy and field work. The non-profit organization is based in Washington and has field representatives and offices across the country. On the web at [hsus.org](http://hsus.org).

-30-

Erin Williams  
Marketing Outreach Coordinator  
Factory Farming Campaign  
The Humane Society of the United States  
2100 L St., NW  
Washington, DC 20037  
301-721-6446  
[ewilliams@hsus.org](mailto:ewilliams@hsus.org)

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**Condensed Title:**

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving and authorizing the City Manager to issue a Certification of Consistency with the City's Consolidated Plan to Florida International University, to apply for funds provided directly by the U.S. Department of Housing and Urban Development, to fund "HealthPEP!", a community-based health promotion and health education program targeting low-income elderly individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus).

**Key Intended Outcome Supported:**

Supportive services for low-income elderly

**Issue:**

Shall the City authorize the City Manager to issue a Certificate of Consistency with the Consolidated Plan to Florida International University to be submitted as part of an application for funds from HUD?

**Item Summary/Recommendation:**

Florida International University (FIU) has requested a Certification of Consistency with the City's Consolidated Plan as part of an application for funds from the U.S. Department of Housing and Urban Development (HUD). FIU's Center on Aging of the Stempel School of Public Health, is submitting an application to HUD's Hispanic-Serving Institutions Assisting Communities (HSIAC) Program, for a grant to fund "HealthPEP!", a community-based health promotion and health education program targeting elderly low income individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus). In accordance with the Consolidated Plan adopted by the City, each request for a Certification of Consistency with the Consolidated Plan requires City Commission review and approval.

**Advisory Board Recommendation:**

N/A

**Financial Information:**

Source of Funds:	Amount	Account	Approved
1	N/A		
2			
3			
4			
<b>Total</b>			

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Vivian P. Guzmán

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
	<i>William M. Fernandez</i>	<i>Jan</i>



MIAMI BEACH

AGENDA ITEM C7P  
DATE 5-10-06



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: May 10, 2006

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ISSUE A CERTIFICATION OF CONSISTENCY WITH THE CITY'S CONSOLIDATED PLAN TO FLORIDA INTERNATIONAL UNIVERSITY, TO APPLY FOR FUNDS PROVIDED DIRECTLY BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), TO FUND THE COMMUNITY-BASED HEALTH PROMOTION AND HEALTH EDUCATION PROGRAM "HEALTHPEP!", TARGETING LOW-INCOME ELDERLY INDIVIDUALS IN MIAMI BEACH, TO BE LOCATED AT THE MOUNT SINAI MEDICAL CENTER, (MIAMI HEART INSTITUTE CAMPUS).**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### ANALYSIS

Florida International University's (FIU's) Center on Aging of the Stempel School of Public Health, is submitting an application to the U.S. Housing and Urban Development's (HUD's) Hispanic-Serving Institutions Assisting Communities (HSIAC) Program, for a grant to fund "HealthPEP!", a community-based health promotion and health education program targeting elderly low income individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus).

HUD requires that applicants for funding obtain and submit a Certification of Consistency with the Consolidated Plan from the entitlement jurisdiction where the activity is to be located for each application. In accordance with the Consolidated Plan adopted by the City on July 30, 2003, each request for a Certification of Consistency with the Consolidated Plan requires City Commission review and approval.

The documentation being submitted by FIU describing the proposed activities has been reviewed and was found to be consistent with the City's Consolidated Plan. The Consolidated Plan identifies long-term objectives in Chapter 4, "Five Year Strategy." Under General Priorities, Public Services, page 4-5, the Plan identifies low-income elderly as a target group for Public Services; page 4-15 assigns a high priority to assisting the elderly and frail in areas of housing and supportive services.

The Administration recommends adoption of the attached Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving and authorizing the City Manager to issue a Certification of Consistency with the City's Consolidated Plan to Florida International University, to apply for funds provided directly by the U.S. Department of Housing and Urban Development, to fund "HealthPEP!", a community-based health promotion and health education program targeting low- income elderly individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus).

HMF/VP/PG/TU/EJB

F:\NEIG\HSG-CD\EDWARD\Certification of Consistency\2006\FIU\FIU comm memo 2006.doc

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ISSUE A CERTIFICATION OF CONSISTENCY WITH THE CITY'S CONSOLIDATED PLAN TO FLORIDA INTERNATIONAL UNIVERSITY, TO APPLY FOR FUNDS PROVIDED DIRECTLY BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, TO FUND THE COMMUNITY-BASED HEALTH PROMOTION AND HEALTH EDUCATION PROGRAM "HEALTHPEP!", TARGETING LOW-INCOME ELDERLY INDIVIDUALS IN MIAMI BEACH, TO BE LOCATED AT THE MOUNT SINAI MEDICAL CENTER, (MIAMI HEART INSTITUTE CAMPUS).**

**WHEREAS**, on July 30, 2003, the Mayor and City Commission adopted the City of Miami Beach Consolidated Plan for Fiscal Years 2003-2007; and

**WHEREAS**, the City's Consolidated Plan is effective for Program Years (PY) 2003/04 through 2007/08; and

**WHEREAS**, Florida International University's (FIU's) Center on Aging of the Stempel School of Public Health, is submitting an application to the U.S. Housing and Urban Development's (HUD's) Hispanic-Serving Institutions Assisting Communities (HSIAC) Program, for a grant to fund "HealthPEP!", a community-based health promotion and health education program targeting elderly low income individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus); and

**WHEREAS**, HUD requires that applicants for Federal funding submit a Certification of Consistency with the Consolidated Plan from the entitlement jurisdiction where the proposed activity is located; and

**WHEREAS**, in accordance with the City's adopted Consolidated Plan, each request for a Certification of Consistency with the Consolidated Plan requires City Commission review and approval; and

**WHEREAS**, the Office of Community Services requests that the City issue a Certification of Consistency with the City's Consolidated Plan; and

**WHEREAS**, the Administration has reviewed the proposed activities of community-based health promotion and education for low-income elderly individuals and found them to be consistent with the City's Consolidated Plan.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve and authorize the City Manager to issue a Certification of Consistency with the City's Consolidated Plan to Florida International University, to apply for funds provided directly by the U.S. Department of Housing and Urban Development, to fund "HealthPEP!", a community-based health promotion and health education program targeting low- income elderly individuals in Miami Beach, to be located at the Mount Sinai Medical Center (Miami Heart Institute Campus).

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

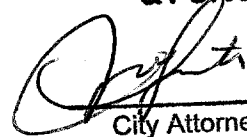
ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

F:\NEIG\HSG-CD\EDWARD\Certification of Consistency\2006\FIU\FIU Cert. Consistency 2006\_Resolution.doc

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

5/9/06  
\_\_\_\_\_  
Date

# Certification of Consistency with the Consolidated Plan

U.S. Department of Housing  
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
(Type or clearly print the following information:)

Applicant Name: Florida International University Board of Trustees

Project Name: HealthPEP! a Community-Based Health Promotion & Health Educa

Location of the Project: Mount Sinai Medical Center (Miami Heart Institute Campus)

Name of the Federal  
Program to which the  
applicant is applying: U.S. HUD - Hispanic Serving Institutions Assisting Communities

Name of  
Certifying Jurisdiction: City of Miami Beach

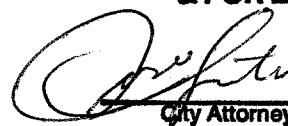
Certifying Official  
of the Jurisdiction  
Name: Jorge M. Gonzalez

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

5/4/06  
\_\_\_\_\_  
Date

# Certification of Consistency with the Consolidated Plan

U.S. Department of Housing  
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
(Type or clearly print the following information:)

Applicant Name: Florida International University Board of Trustees

Project Name: HealthPEP! a Community-Based Health Promotion & Health Educa

Location of the Project: Mount Sinai Medical Center (Miami Heart Institute Campus)

Name of the Federal  
Program to which the  
applicant is applying: U.S. HUD - Hispanic Serving Institutions Assisting Communities

Name of  
Certifying Jurisdiction: City of Miami Beach

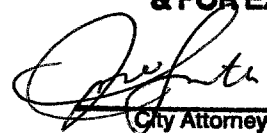
Certifying Official  
of the Jurisdiction  
Name: Jorge M. Gonzalez

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
City Attorney

5/9/06  
Date

**Certification of Consistency  
with the Consolidated Plan**

U.S. Department of Housing  
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
(Type or clearly print the following information:)

Applicant Name: Florida International University Board of Trustees

Project Name: HealthPEP! a Community-Based Health Promotion & Health Educa

Location of the Project: Mount Sinai Medical Center (Miami Heart Institute Campus)

Name of the Federal  
Program to which the  
applicant is applying: U.S. HUD - Hispanic Serving Institutions Assisting Communities

Name of  
Certifying Jurisdiction: City of Miami Beach

Certifying Official  
of the Jurisdiction  
Name: Jorge M. Gonzalez

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

 5/9/06  
City Attorney Date



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2006 MAY -5 AM 10:18

CITY MANAGERS OFFICE

BY \_\_\_\_\_



# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Luis R. Garcia, Jr., Commissioner

DATE: May 4, 2006

SUBJECT: Agenda item for May 10, 2006

*[Handwritten signature]*

Please place as a discussion and referral item on the May 10, 2006 Commission Agenda the attached proposed amendment, allowing cigar vendors on Ocean Drive (see attached).

Thank you.

Attachment

## PROPOSED AMENDMENT ALLOWING CIGAR VENDORS ON OCEAN DRIVE

Sec. 142-904. Additional mixed use entertainment district regulations.

- (a) General provisions. Accessory uses shall comply with the following mandatory criteria in addition to the regulations contained in sections 142-901 and 142-902:
  - 1) All structures shall conform to the South Florida Building Code, the city property maintenance standards and the fire prevention and safety code.
  - 2) The existing building and the proposed improvements shall be built in a manner that is substantially consistent with the design recommendations in neighborhood plans for the area if one exists, and the Secretary of the Interior Standards for Rehabilitation and Guidelines for Historic Structures, U.S. Department of the Interior (revised 1983), as amended.
  - 3) The minimum and average floor area requirements for the units as set forth in article II, division 13 of this chapter shall be met.
  - 4) If the building or plans do not indicate compliance with subsections (a)(1), (a)(2) and (a)(3) of this section, then accessory uses are not permitted.
- (b) Permitted accessory uses. The following are permitted accessory uses in the mixed use entertainment district.
  - 1) Permitted accessory uses in hotels.
    - a. Those accessory uses that are customarily associated with the operation of a hotel as determined by the planning and zoning director. The amount of retail space shall not exceed 75 square feet per hotel unit.
    - b. Hotels may have offices not associated with the operation of a hotel. The floor space associated with offices shall not exceed 35 square feet per hotel unit; medical or dental related offices are prohibited.
    - c. Restaurants, outdoor cafes, sidewalk cafes.
    - d. Solarium, sauna, exercise studio, health club or massage service which are located in either the subterranean, ground, mezzanine or roof levels only and are operated by an individual licensed by the state or other appropriate agencies.
    - e. Antiques, bookstore, art/craft galleries, artist studios.
    - f. Sale of alcoholic beverages as per article V, division 4 of this chapter.
    - g. Uses located on the porch, terrace or patio of a building are limited to table seating for eating and drinking establishments, which have their fixtures and cooking facilities located in the interior of the building, and the sale of flowers when conducted from a movable stand that is placed inside the building at the close of business, and the sale of cigars and cigarettes by a vendor licensed on the premises, provided that such sale or transaction shall only occur on private property and not on the City's right of way. The sale of any product permitted by this section shall comply with Sec. 74-1 of this Code.

## **PROPOSED AMENDMENT CLARIFYING STORE ENCLOSURES**

Sec. 142-874. Required enclosures.

- (a) Store enclosures. In all use districts designated in these land development regulations, the sale, or exposure for sale or rent, of any personal property, including merchandise, groceries or perishable foods, such as vegetables and fruits, is prohibited, unless such sale, or exposure for sale, is made from a substantially enclosed, permanent building ~~or structure~~; provided, however, that nothing herein contained shall be deemed applicable to filling stations, automobile service stations or repair shops; uses having revocable permits or beach concessions operated or granted by the city, newsracks or newspaper stands, or displays at sidewalk cafes as permitted in subsection 82-384(ff), wherever such uses are otherwise permissible.

## **FOR INFORMATIONAL PURPOSES**

Sec. 74-1. Soliciting business in public from pedestrians.

It shall be unlawful for any person, while upon any public street or sidewalk or while in any building, doorway, stairway, window or other opening abutting on or adjacent to such street or sidewalk, to accost or attempt to accost any pedestrian on such street or sidewalk for the purpose of soliciting him to purchase any property, real or personal, or to solicit him to enter any place of business for the purpose of selling to or inducing or attempting to induce such pedestrian to purchase any property, real or personal.

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager  
FROM: Richard L. Steinberg, Commissioner *RLS/mt*  
DATE: May 8, 2006  
SUBJECT: Agenda Item – Discussion Regarding Allowing Dogs at Outdoor Cafes

Please place on the May 10<sup>th</sup> Commission Agenda an item for discussion to allow dogs in outdoor cafes. Please find attached Senate Bill 1172 for reference.

If you have any questions, please feel free to contact my Aide, Ms. Marlene Taylor, at extension 6087.

RLS/mt

RECEIVED  
2006 MAY -8 PM 12:06  
CITY MANAGERS OFFICE  
BY

Agenda Item R9H  
Date 5-10-06

ENROLLED

2006 Legislature

CS for SB 1172, 2nd Engrossed

1  
2 An act relating to public food service  
3 establishments; providing a short title;  
4 providing legislative findings and intent;  
5 creating s. 509.233, F.S.; creating a pilot  
6 program that authorizes local governments to  
7 adopt an ordinance establishing a local  
8 exemption to certain provisions of general law  
9 and agency rules relating to public food  
10 service establishments in order to permit  
11 patrons' dogs at certain designated outdoor  
12 portions of such establishments; providing for  
13 implementation and enforcement procedures;  
14 providing for state assistance; providing for  
15 future review and repeal; providing an  
16 effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:  
19

20 Section 1. This act may be cited as "The Dixie Cup  
21 Clary Local Control Act."

22 Section 2. Findings and intent.--The Legislature finds  
23 and declares:

24 (1) Chapter 509, Florida Statutes, requires the  
25 Division of Hotels and Restaurants of the Department of  
26 Business and Professional Regulation to carry out all laws and  
27 rules relating to the inspection and regulation of public food  
28 service establishments for the purpose of safeguarding the  
29 public health, safety, and welfare.

30 (2) Section 509.013(5), Florida Statutes, defines  
31 "public food service establishment" as "any building, vehicle,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

ENROLLED

2006 Legislature

CS for SB 1172, 2nd Engrossed

1 place, or structure, or any room or division in a building,  
2 vehicle, place, or structure, where food is prepared, served,  
3 or sold for immediate consumption on or in the vicinity of the  
4 premises; called for or taken out by customers; or prepared  
5 prior to being delivered to another location for consumption."

6 (3) Section 509.032, Florida Statutes, requires the  
7 Division of Hotels and Restaurants of the Department of  
8 Business and Professional Regulation to adopt and enforce such  
9 rules as are necessary to ensure the protection of the public  
10 from food-borne illness in public food service establishments.

11 (4) Section 509.032, Florida Statutes, further  
12 requires the Division of Hotels and Restaurants of the  
13 Department of Business and Professional Regulation to adopt  
14 such rules in order to "provide the standards and requirements  
15 for obtaining, storing, preparing, processing, serving, or  
16 displaying food in public food service establishments,  
17 approving public food service establishment facility plans,  
18 conducting necessary public food service establishment  
19 inspections for compliance with sanitation regulations,  
20 cooperating and coordinating with the Department of Health in  
21 epidemiological investigations, and initiating enforcement  
22 actions, and for other such responsibilities deemed necessary  
23 by the division."

24 (5) Pursuant to the grant of rulemaking authority  
25 cited in s. 509.032, Florida Statutes, the Division of Hotels  
26 and Restaurants of the Department of Business and Professional  
27 Regulation has adopted by rule sanitation and safety  
28 requirements of public food service establishments, including  
29 requirements relating to physical facilities, which adopts by  
30 reference certain portions of the Food and Drug Administration  
31 Food Code, as amended from time to time, as developed by the

2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

ENROLLED

2006 Legislature

CS for SB 1172, 2nd Engrossed

1 Food and Drug Administration of the United States Department  
2 of Health and Human Services.



3       (6) The Food and Drug Administration Food Code  
4 generally prohibits live animals from public food service  
5 establishments.

6       (7) Section 509.032(7), Florida Statutes, expressly  
7 preempts to the state regulation of public lodging  
8 establishments and public food service establishments for  
9 compliance with the sanitation standards adopted by the  
10 Division of Hotels and Restaurants of the Department of  
11 Business and Professional Regulation.

12       (8) Section 509.032(7), Florida Statutes, expressly  
13 limits the general home rule powers of local governments as it  
14 relates to the regulation of public food service  
15 establishments.

16       (9) The purpose of this act is to establish a 3-year  
17 pilot program to allow participating local governments to  
18 enact an ordinance establishing procedures by which public  
19 food service establishments could become exempt from certain  
20 portions of the Food and Drug Administration Food Code and  
21 allow patrons' dogs within certain designated outdoor portions  
22 of their respective establishments.

23       Section 3. Section 509.233, Florida Statutes, is  
24 created to read:

25       509.233 Public food service establishment  
26 requirements; local exemption for dogs in designated outdoor  
27 portions; pilot program.--

28       (1) INTENT.--It is the intent of the Legislature by  
29 this section to establish a 3-year pilot program for local  
30 governments to allow patrons' dogs within certain designated  
31 outdoor portions of public food service establishments.

3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

ENROLLED

2006 Legislature

CS for SB 1172, 2nd Engrossed

1       (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.  
2 509.032(7), the governing body of a local government  
3 participating in the pilot program is authorized to establish,  
4 by ordinance, a local exemption procedure to certain  
5 provisions of the Food and Drug Administration Food Code, as

6 currently adopted by the division, in order to allow patrons'  
7 dogs within certain designated outdoor portions of public food  
8 service establishments.

9 (3) LOCAL DISCRETION; CODIFICATION.--

10 (a) The adoption of the local exemption procedure  
11 shall be at the sole discretion of the governing body of a  
12 participating local government. Nothing in this section shall  
13 be construed to require or compel a local governing body to  
14 adopt an ordinance pursuant to this section.

15 (b) Any ordinance adopted pursuant to this section  
16 shall provide for codification within the land development  
17 code of a participating local government.

18 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

19 (a) Any local exemption procedure adopted pursuant to  
20 this section shall only provide a variance to those portions  
21 of the currently adopted Food and Drug Administration Food  
22 Code in order to allow patrons' dogs within certain designated  
23 outdoor portions of public food service establishments.

24 (b) In order to protect the health, safety, and  
25 general welfare of the public, the local exemption procedure  
26 shall require participating public food service establishments  
27 to apply for and receive a permit from the governing body of  
28 the local government before allowing patrons' dogs on their  
29 premises. The local government shall require from the  
30 applicant such information as the local government deems  
31 reasonably necessary to enforce the provisions of this

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CS for SB 1172, 2nd Engrossed

1 section, but shall require, at a minimum, the following  
2 information:

3 1. The name, location, and mailing address of the  
4 public food service establishment.

5 2. The name, mailing address, and telephone contact  
6 information of the permit applicant.

7 3. A diagram and description of the outdoor area to be  
8 designated as available to patrons' dogs, including dimensions

9 of the designated area; a depiction of the number and  
10 placement of tables, chairs, and restaurant equipment, if any;  
11 the entryways and exits to the designated outdoor area; the  
12 boundaries of the designated area and of other areas of  
13 outdoor dining not available for patrons' dogs; any fences or  
14 other barriers; surrounding property lines and public  
15 rights-of-way, including sidewalks and common pathways; and  
16 such other information reasonably required by the permitting  
17 authority. The diagram or plan shall be accurate and to scale  
18 but need not be prepared by a licensed design professional.

19 4. A description of the days of the week and hours of  
20 operation that patrons' dogs will be permitted in the  
21 designated outdoor area.

22 (c) In order to protect the health, safety, and  
23 general welfare of the public, the local exemption ordinance  
24 shall include such regulations and limitations as deemed  
25 necessary by the participating local government and shall  
26 include, but not be limited to, the following requirements:

27 1. All public food service establishment employees  
28 shall wash their hands promptly after touching, petting, or  
29 otherwise handling dogs. Employees shall be prohibited from  
30 touching, petting, or otherwise handling dogs while serving  
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1 food or beverages or handling tableware or before entering  
2 other parts of the public food service establishment.

3 2. Patrons in a designated outdoor area shall be  
4 advised that they should wash their hands before eating.  
5 Waterless hand sanitizer shall be provided at all tables in  
6 the designated outdoor area.

7 3. Employees and patrons shall be instructed that they  
8 shall not allow dogs to come into contact with serving dishes,  
9 utensils, tableware, linens, paper products, or any other  
10 items involved in food service operations.

11 4. Patrons shall keep their dogs on a leash at all

12 times and shall keep their dogs under reasonable control.

13 5. Dogs shall not be allowed on chairs, tables, or  
14 other furnishings.

15 6. All table and chair surfaces shall be cleaned and  
16 sanitized with an approved product between seating of patrons.  
17 Spilled food and drink shall be removed from the floor or  
18 ground between seating of patrons.

19 7. Accidents involving dog waste shall be cleaned  
20 immediately and the area sanitized with an approved product. A  
21 kit with the appropriate materials for this purpose shall be  
22 kept near the designated outdoor area.

23 8. A sign or signs reminding employees of the  
24 applicable rules shall be posted on premises in a manner and  
25 place as determined by the local permitting authority.

26 9. A sign or signs reminding patrons of the applicable  
27 rules shall be posted on premises in a manner and place as  
28 determined by the local permitting authority.

29 10. A sign or signs shall be posted in a manner and  
30 place as determined by the local permitting authority that  
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1 places the public on notice that the designated outdoor area  
2 is available for the use of patrons and patrons' dogs.

3 11. Dogs shall not be permitted to travel through  
4 indoor or nondesignated outdoor portions of the public food  
5 service establishment, and ingress and egress to the  
6 designated outdoor portions of the public food establishment  
7 must not require entrance into or passage through any indoor  
8 area of the food establishment.

9 (d) A permit issued pursuant to this section shall not  
10 be transferred to a subsequent owner upon the sale of a public  
11 food service establishment but shall expire automatically upon  
12 the sale of the establishment. The subsequent owner shall be  
13 required to reapply for a permit pursuant to this section if  
14 the subsequent owner wishes to continue to accommodate

15 patrons' dogs.

16       (5) POWERS; ENFORCEMENT.--Participating local  
17 governments shall have such powers as are reasonably necessary  
18 to regulate and enforce the provisions of this section.

19       (6) STATE AND LOCAL COOPERATION.--The division shall  
20 provide reasonable assistance to participating local  
21 governments in the development of enforcement procedures and  
22 regulations, and participating local governments shall monitor  
23 permitholders for compliance in cooperation with the division.  
24 At a minimum, participating local governments shall establish  
25 a procedure to accept, document, and respond to complaints and  
26 to timely report to the division all such complaints and the  
27 participating local governments' enforcement responses to such  
28 complaints. A participating local government shall provide the  
29 division with a copy of all approved applications and permits  
30 issued, and the participating local government shall require  
31 that all applications, permits, and other related materials

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2006 Legislature

CS for SB 1172, 2nd Engrossed

1 contain the appropriate division-issued license number for  
2 each public food service establishment.

3       (7) FUTURE REVIEW AND REPEAL.--This section shall  
4 expire July 1, 2009, unless reviewed and saved from repeal  
5 through reenactment by the Legislature.

6       Section 4. This act shall take effect July 1, 2006.

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# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

Jose Smith, City Attorney

FROM: Richard L. Steinberg, Commissioner RLS/mt

DATE: May 8, 2006

SUBJECT: Agenda Item- Resolution urging Governor Jeb Bush to veto a bill that would eliminate the Miami-Dade County Ordinance requiring gas stations to have an emergency response plan.

Please draft a resolution urging Governor Jeb Bush to veto the bill that would eliminate the newly created Miami-Dade County Ordinance requiring emergency response plans from gas stations located in the incorporated and unincorporated areas for the provision of fuel during local states of emergency. Please find attached a copy of the Miami-Dade County Ordinance. This resolution should be placed on the May 10, 2006 Commission Agenda for action.

If you have any questions or comments, please feel free to contact my Aide, Ms. Marlene Taylor at ext. 6087.

RLS/mt

BY  
CITY MANAGERS OFFICE

2006 MAY -9 AM 10:16

RECEIVED

Agenda Item R9I  
Date 5-10-06





## Miami-Dade Legislative Item

### File Number: 053082

Printable PDF Format

**File Number:** 053082**File Type:** Ordinance**Status:** Before the Board**Version:** 0**Reference:****Control:** County Commission**File Name:** EMERGENCY RESPONSE PLAN FROM GAS STATIONS**Introduced:**  
12/22/2005**Requester:** NONE**Cost:****Final Action:****Agenda Date:** 3/21/2006 **Agenda Item Number:** 7B

**Notes: Title:** ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM GAS STATIONS LOCATED IN THE INCORPORATED AND UNINCORPORATED AREAS FOR THE PROVISION OF FUEL DURING A LOCAL STATE OF EMERGENCY; PROVIDING FOR MINIMUM CONTENTS OF THE PLAN INCLUDING THE REQUIREMENT OF THE UNINTERRUPTED SUPPLY OF POWER; PROVIDING FOR APPROVAL BY THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT; PROVIDING FOR EXEMPTIONS FOR LIMITED PERIODS; ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES, AMENDING CHAPTERS 8B AND 8CC OF THE CODE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**Indexes:** NONE **Sponsors:** Joe A. Martinez

Jose "Pepe" Diaz  
Audrey M. Edmonson  
Carlos A. Gimenez  
Sally A. Heyman  
Barbara J. Jordan  
Dennis C. Moss  
Dorrin D. Rolle  
Rebeca Sosa  
Sen. Javier D. Souto

**Sunset Provision:** No**Effective Date:****Expiration Date:****Registered Lobbyist:** None Listed

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### Legislative History

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Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	3/23/2006	7B	Withdrawn				
<b>REPORT:</b> See Agenda Items 7B Substitute and 7B Substitute Amended, Legislative File Numbers 060870 and 060924, respectively.							
Community Outreach, Safety & Healthcare Admin Cmte	3/15/2006	2A	Amended				
<b>REPORT:</b> (See Agenda Item 2A Amended; Legislative file No. 060870 for the amended version.)							
Community Empowerment & Econ. Revitalization Cmte.	3/14/2006	2B	Amended				
<b>REPORT:</b> See Agenda Item 2B Amended, Legislative File No. 060870 for the amended version.							
County Attorney	2/28/2006		Referred	Community Empowerment & Econ. Revitalization Cmte.	3/14/2006		
County Attorney	2/28/2006		Referred	Community Outreach, Safety & Healthcare Admin Cmte	3/15/2006		
Community Outreach, Safety & Healthcare Admin Cmte	2/15/2006	2I	Forwarded to BCC without a recommendation				P
<b>REPORT:</b> Assistant County Attorney Daron Fitch read the foregoing ordinance into the record. Chairwoman Sosa suggested since this ordinance was heard before every committee for discussion, that it be forwarded to the BCC after this Committee heard the public comments. She opened the public hearing and the following person(s) appeared: Mr. Eric Hamilton, Florida Petroleum Council, appeared before the Committee and offered further assistance should this ordinance be forwarded to a workshop. He recommended the Committee consider Senate Bill 858 which served as a good guide to follow. There being no other persons wishing to be heard in connection to this issue, the public hearing was closed. Hearing no discussion or comments, the Committee proceeded to vote.							
Community Empowerment & Econ.	2/14/2006	3A	Forwarded to BCC without a recommendation				P

Revitalization  
Cmte.

**REPORT:**

Assistant County Manager Tony Crapp, Sr. read the foregoing proposed ordinance into the record. Chairman Rolle opened the public hearing. Mr. David Mikal (phonetic), Director, Florida Petroleum Council Trade Association, Division of the American Petroleum Institute representing the oil industry, appeared before the Committee and stated that there was a core necessity associated with back-up power that was essential to real emergency needs in a hurricane. He noted the foregoing issue would be addressed statewide because of its significance. Mr. Mikal noted the involvement of several Florida legislators who had sponsored bills regarding the foregoing ordinance. He asked that a workshop be scheduled and experts be available at the workshop to provide detailed information on noise associated with generators, zoning issues associated with setback, diesel fuel, power, permit costs and the timeframes for obtaining permits. Mr. Mikal (phonetic) concluded by stating that he looked forward to working with this Committee and the full Board to address this issue. Commissioner Sorenson stated that when the Board was discussing post-hurricane issues she initiated a resolution that the County would meet with the industry to review options as it related to the issue. Commissioner Sorenson stated the industry should present recommendations to the County. Commissioner Jordan stated she would propose at the full Board meeting that the foregoing proposed ordinance be referred to workshop. She also suggested an amendment that would allow Mom and Pop organizations to opt-out of the requirement to have an Emergency Response Plan. She concluded by stating that the foregoing ordinance should be forwarded with a recommendation to support the industry coming together to respond to the community needs and to conduct a broader discussion with the full Board on the item. Commissioner Souto expressed concern with the timeline for consideration of the foregoing ordinance and the approach of the hurricane season within the next three months. He urged the Committee to allow the industry to present a short-term plan in order to address the foregoing issue until a comprehensive plan could be developed. Following Commissioner Souto's comments, Mr. Mikal (phonetic) pointed out that the industry and the County would work together to address this issue. He stated the industry supported the creation of designated service stations in certain areas. Chairman Rolle asked Assistant County Manager Carlos Bonzon to schedule a workshop as soon as possible to discuss this proposed ordinance. He noted appropriate language should be included to indicate how fuel would be provided to essential staff. Hearing no further questions or comments, the public hearing was closed and the Committee proceeded to vote on the foregoing proposed ordinance as presented. Following Commissioner Jordan's comments regarding a potential amendment to the foregoing proposed ordinance, Assistant County Attorney Eric Rodriguez clarified in paragraph 10 of the ordinance that criteria may include size, volume and location of the gas station. He noted that the criteria would be presented in the form of a County's Administrative Order.

Infrastructure  
and Land Use  
Committee

2/14/2006 3B

Forwarded to BCC  
with a favorable  
recommendation

P

**REPORT:**

Assistant County Attorney Joni Armstrong-Coffey read the foregoing proposed ordinance into the record. Chairwoman Seijas opened the public hearing and the following individuals appeared in opposition: Mr. Eric Hamilton, Florida Petroleum Council, who yielded to Mr. Micah and Mr. David Micah, Director, Florida Petroleum Council, 215 South Monroe Street, Suite 800 Tallahassee, Florida. Commissioner Gimenez referenced an incident wherein his friend had purchased a generator for his gas station at a much lower price than that presented by Mr. Micah. He noted the length of time it would take gas station owners to develop a plan for FEMA's approval would need to be considered as well as costs. Mr. Al Cardinas, 144 1 Brickell Avenue, appeared before the Committee and recommended that implementation of the foregoing proposed ordinance be deferred until it was determined whether the State would enact legislation regarding this issue. He pointed out the County needed to coordinate with emergency preparedness teams for the development of emergency corridors and installation of systems that withstand hurricane-force winds at gas stations. Commissioner Diaz recommended assigning a representative from Fire and Rescue to evaluate the feasibility of a gas station continuing operations after sustaining disaster related damages. He expressed his intention to meet with knowledgeable County staff to discuss these issues before this ordinance was presented before the full Commission. Concerned with the high costs involved,

Commissioner Jordan recommended this ordinance be amended to allow "Mom and Pop" stations to "opt out" of this ordinance. She agreed there needed to be provisions regarding this matter and suggested a full workshop be held. Commissioner Gimenez asked the Assistant County Manager to provide Committee members with a map depicting the size and location of all gas station within the County. There being no other persons to appear in connection with the foregoing proposed ordinance, the public hearing was closed. Chairwoman Seijas asked that the County Manager ensure that no agenda item be submitted to two or three committees before being considered by the full Board.

County Attorney	1/6/2006	Referred	Infrastructure and Land Use Committee	2/14/2006	
County Attorney	1/6/2006	Referred	Community Empowerment & Econ. Revitalization Cmte.	2/14/2006	
County Attorney	1/6/2006	Referred	Community Outreach, Safety & Healthcare Admin Cmte	2/15/2006	
County Manager	1/6/2006	Municipality Notification Sent	Infrastructure and Land Use Committee	2/14/2006	11/1/2005
County Manager	1/6/2006	Municipality Notification Sent	Community Empowerment & Econ. Revitalization Cmte.	2/14/2006	11/1/2005
County Manager	1/6/2006	Municipality Notification Sent	Community Outreach, Safety & Healthcare Admin Cmte	2/15/2006	11/1/2005
County Attorney	11/2/2005	Assigned	Hugo Benitez		11/2/2005
County Manager	11/2/2005	Additions		11/1/2005	
Board of County Commissioners	11/1/2005	14A1	Adopted on first reading		P

**REPORT:** Following the introduction of the foregoing proposed ordinance, Chairman Martinez provided a report on the intent of the foregoing proposed ordinance. He noted that industry representatives did not provide input into the foregoing proposed ordinance because he asked the County Attorney to expedite the process to have the Board consider it on first reading. He said there

would be ample opportunity for public hearing and debate in Committees. The foregoing proposed ordinance was subsequently scheduled for public hearing at the Infrastructure and Land Use Committee meeting of February 14, 2006, at 9:30 a.m., the Community Empowerment and Economic Revitalization Committee meeting of February 14, 2006, at 2:00 p.m., and the Community Outreach, Healthcare and Administration Committee meeting of February 15, 2006, at 2:00 p.m. The Board of County Commissioners took action on this item on November 3, 2005.

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## Legislative Text

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### TITLE

ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM GAS STATIONS LOCATED IN THE INCORPORATED AND UNINCORPORATED AREAS FOR THE PROVISION OF FUEL DURING A LOCAL STATE OF EMERGENCY; PROVIDING FOR MINIMUM CONTENTS OF THE PLAN INCLUDING THE REQUIREMENT OF THE UNINTERRUPTED SUPPLY OF POWER; PROVIDING FOR APPROVAL BY THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT; PROVIDING FOR EXEMPTIONS FOR LIMITED PERIODS; ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES, AMENDING CHAPTERS 8B AND 8CC OF THE CODE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

### BODY

WHEREAS, Hurricane Wilma made landfall in South Florida in the morning hours of October 24, 2005; and

WHEREAS, the hurricane created a serious crisis throughout the region involving the shortage of fuel; and

WHEREAS, fuel is an indispensable commodity, necessary for the transportation and emergency electrical power to serve hurricane victims and rescue and law enforcement personnel; and

WHEREAS, the shortage was the result of a power shortage which rendered inoperable a very large percentage of the gas stations in the region; and

WHEREAS the protection of this community requires that this situation not be repeated and these gas stations provide for an uninterrupted supply of alternate power sufficient to operate the pumps during times of emergency need; and

WHEREAS the Office of Emergency Management through its Director has been charged with the responsibility of performing emergency management functions within the territorial limit of Miami-Dade County; and

WHEREAS the coordinated planning of these efforts on a County-wide basis is in the best interest of the citizens of incorporated and unincorporated Miami-Dade County; and

WHEREAS these measures are essential to the protection of the safety of our community in the event of emergency conditions created by the recently experienced more active hurricane seasons, among others,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Chapter 8B of the Code of Miami-Dade County is hereby amended by the addition of the following new section:

### CHAPTER 8B - EMERGENCY MANAGEMENT

\* \* \*

Sec. 8B-16 Planning related to gas stations.

1. This Section shall apply to gas stations located within incorporated or unincorporated Miami-Dade County. Gas station shall be defined in Section 33-1 (51) of this Code.
2. Gas stations are required to create and implement a plan in place to provide for the uninterrupted operation of all fuel pumps within twenty-four hours following the declaration of a local state of emergency pursuant to this Chapter (the "Gas Station Emergency Plan").
3. The Gas Station Emergency Plan shall document the gas station's ability to provide uninterrupted services not later than June 1, 2006 and shall provide, at a minimum:
  - (a) An alternate source of power to operate the pumps during periods of electrical outage (the "Alternate Source"). The Alternate Source shall be sufficient to operate all pumps during normal business hours and may involve one or more temporary or permanent fuel operated generators.
  - (b) In the event that the Alternate Source requires the installation of permanent equipment, a schedule showing the purchase or lease of the equipment and providing installation not later than June 1, 2006.
  - (c) In the event that the Alternate Source requires construction or otherwise the obtaining of a building permit, a schedule for obtaining a permit not later than March 1, 2006 and a certificate of occupancy not later than June 1, 2006.
  - (d) In the event that the Alternate Source requires the delivery of generators from off-site facilities, evidence of the availability of such generators to the gas station, and for delivery to the site of those generators in reasonably foreseeable disaster conditions.
  - (e) A maintenance plan for any and all equipment related to the Alternate Source.
  - (f) Plans for the recall of gas station personnel essential to the task of dispensing essential fuel supplies.
  - (g) Identification of the owner, manager or person having operational control of the gas station and, if different, emergency contact personnel charged with implementing the Plan.
4. Each owner of a gas station shall deliver the required Gas Station Emergency Plan to the Director not later than February 1, 2006. For gas stations which are not in possession of a certificate of use and occupancy as of the effective date of this Section, the required Gas Station Emergency Plan shall be delivered to the Director not later than 90 days following the date of such certificate and shall provide for implementation within 180 days of submission of the plan.
5. The Director shall review each Gas Station Emergency Plan to determine in his or her discretion whether such plan complies with the requirement of this ordinance and otherwise provides for the protection of public safety by allowing for the distribution of fuel during disaster conditions.
6. The Director shall reject any Gas Station Emergency Plan within thirty (30) days of its submission by notifying the person identified in the plan. The Director shall wherever possible identify the reasons for rejection and provide an opportunity to cure. Failure to notify a rejection shall be deemed approval of the plan.
7. Gas stations shall at all times abide by the provisions of the approved Gas Station Emergency Plan, including any and all deadlines set forth in the approved schedule. The Gas Station Emergency Plan shall be in effect for a period of five (5) years and shall be binding on all subsequent owners and operators of the gas station. A new Emergency Gas Station Plan shall be submitted for approval not later than sixty (60) days prior to the expiration of the plan in effect.
8. In the event of any material change with respect to any of the provisions of the Gas Station Emergency Plan the revisions shall be communicated to the Director in writing, for the Director's approval, wherever possible in advance of the proposed change and in no event later than sixty (60) days following the adoption of the change.
9. Failure to abide by the provisions of this Section shall be punishable by civil fine in the manner established by Chapter 8CC of this Code, with each day of violation constituting a separate offense. The provisions of this Chapter shall also be enforceable through injunctive relief as a means of

protection of the public interest through the exercise of the County's police power, and through any other means available at law.

10. The Director shall be entitled, in his or her discretion, to exempt a gas station from the requirements of this Section based upon criteria to be applied uniformly and approved by resolution of this Board. The criteria may include size, volume and location of the gas station.

11. This Section shall preempt and supersede any inconsistent municipal ordinance to the same effect.

12. Nothing in this Section shall be interpreted to curtail, impede or otherwise affect the discretionary authority of the County in the exercise of its police power, administrative or regulatory functions

Section 2. Chapter 8CC of the Code of Miami Dade County is hereby amended as follows:1

Chapter 8CC

CODE ENFORCEMENT

\* \* \*

Sec. 8CC-10. Schedule of civil penalties.

\* \* \*

Code Section Description of Violation Civil Penalty

>>8B-16 Failure to file or abide by Gas

Station Emergency Plan \$500.00<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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F L O R I D A   H O U S E   O F   R E P R E S E N T A T I V E S

HB 603

2006  
CS

CHAMBER ACTION

1 The Agriculture Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5  
6 A bill to be entitled

7 An act relating to disaster preparedness response and  
8 recovery; creating s. 526.143, F.S.; providing that each  
9 motor fuel terminal facility and wholesaler that sells  
10 motor fuel in the state must be capable of operating its  
11 distribution loading racks using an alternate power source  
12 for a specified period by a certain date; providing  
13 requirements with respect to the operation of such  
14 equipment following a major disaster; providing  
15 requirements with respect to inspection of such equipment;  
16 requiring newly constructed or substantially renovated  
17 motor fuel retail outlets to be capable of operation using  
18 an alternate power source; defining "substantially  
19 renovated"; providing inspection requirements; requiring  
20 certain motor fuel retail outlets to be capable of  
21 operation using an alternate power source by a specified  
22 date; requiring certain owners of motor fuel retail  
23 outlets within a county to maintain a portable generator

Page 1 of 6

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hb0603-01-c1



F L O R I D A   H O U S E   O F   R E P R E S E N T A T I V E S

HB 603

2006  
CS

24 as an alternate power source for a specified number of  
25 outlets; providing inspection and recordkeeping  
26 requirements; providing applicability; providing  
27 severability; providing for preemption to the state of the  
28 regulation of and requirements for siting and placement of  
29 an alternate power source and any related equipment at  
30 motor fuel terminal facilities, wholesalers, and retail  
31 sales outlets; amending s. 252.35, F.S.; expanding the  
32 duty of the Division of Emergency Management to conduct a  
33 public educational campaign on emergency preparedness  
34 issues; providing an additional duty of the division with  
35 respect to educational outreach concerning disaster  
36 preparedness; providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 526.143, Florida Statutes, is created  
41 to read:

42 526.143 Alternate means of power generation for motor fuel  
43 dispensing facilities.--

44 (1) No later than December 31, 2006, each motor fuel  
45 terminal facility, as defined in s. 526.303(16), and wholesaler,  
46 as defined in s. 526.303(17), that sells motor fuel in this  
47 state must be capable of operating its distribution loading  
48 racks using an alternate power source for a minimum of 72 hours.  
49 Pending a postdisaster examination of the equipment by the  
50 operator to determine any extenuating damage that would render  
51 it inoperable or unsafe to use, the facility must have such

Page 2 of 6

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hb0603-01-c1

HB 603

2006  
CS

52 alternate power source available for operation no later than 36  
53 hours after a major disaster, as defined in s. 252.34. Initial  
54 inspection for proper installation and operation shall be  
55 completed by a local building inspector, and verification of the  
56 inspection must be submitted to the local county emergency  
57 management agency. Inspectors from the Department of Agriculture  
58 and Consumer Services shall perform a periodic visual inspection  
59 of the alternate power source to ensure that the emergency  
60 auxiliary electrical equipment is installed. Each facility shall  
61 perform annual inspections to ensure that the emergency  
62 auxiliary electrical generators are in good working order.

63 (2) Each newly constructed or substantially renovated  
64 motor fuel retail outlet, as defined in s. 526.303(14), for  
65 which a certificate of occupancy is issued on or after July 1,  
66 2006, must be prewired with an appropriate transfer switch and  
67 be capable of operating all fuel pumps, dispensing equipment,  
68 life-safety systems, and payment acceptance equipment using an  
69 alternate power source. As used in this subsection, the term  
70 "substantially renovated" means a renovation that results in an  
71 increase of greater than 50 percent in the assessed value of the  
72 motor fuel retail outlet. Local building inspectors shall  
73 include an equipment and operations check for compliance with  
74 this subsection in the normal inspection process before issuing  
75 a certificate of occupancy. A copy of the certificate of  
76 occupancy shall be provided to the county emergency management  
77 agency upon issuance of such certificate. Each facility shall  
78 perform periodic inspections to ensure that the installed  
79 transfer switch and emergency auxiliary electrical generators

HB 603

2006  
CS

are in good working order and provide proof of those inspections to the county emergency management agency.

(3)(a) No later than December 31, 2006, each motor fuel retail outlet described in subparagraph 1. or subparagraph 2. must be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate power source:

1. A motor fuel retail outlet which has 16 or more fueling positions.

2. A motor fuel retail outlet that had a minimum monthly average motor fuel sales volume of 125,000 gallons for any 6-month period during calendar year 2005.

(b) A person or corporation that owns or operates more than 10 motor fuel retail outlets within a single county shall maintain at least one portable generator that is capable of providing an alternate power source as required under subsection (2) for every 10 retail outlets owned or operated by the person or corporation.

(c) Installation of the wiring and transfer switch required under paragraph (a) shall be performed by a certified electrical contractor. Each retail outlet subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each retail outlet must keep a written record that confirms the periodic testing and ensured operational capacity of the equipment. The required documents must be made available

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upon request to the Division of Emergency Management and the  
county emergency management agency.

(4)(a) Subsections (2) and (3) apply to any self-service,  
full-service, or combination self-service and full-service motor  
fuel outlet regardless of whether the business is located on the  
grounds of, or is owned by, another retail business  
establishment that does not engage in the business of selling  
motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;
2. A person who operates a fleet of motor vehicles; or
3. A person who sells motor fuel exclusively to a fleet of  
motor vehicles.

(5) If any provision of this section or its application to  
any person or circumstance is held invalid, the invalidity does  
not affect other provisions or applications of the section which  
can be given effect without the invalid provision or  
application, and to this end the provisions of this section are  
declared severable.

(6) Notwithstanding any other law or local ordinance, to  
ensure an appropriate emergency management response to major  
disasters in the state, the regulation of and requirements for  
the siting and placement of an alternate power source and any  
related equipment at motor fuel terminal facilities,  
wholesalers, and retail sales outlets shall be exclusively  
controlled by the state.

Section 2. Paragraph (i) of subsection (2) of section  
252.35, Florida Statutes, is amended, paragraphs (j) through (v)

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are renumbered as paragraphs (k) through (w), respectively, and a new paragraph (j) is added to that subsection, to read:

252.35 Emergency management powers; Division of Emergency Management.--

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties under ss. 252.31-252.90, the division shall:

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues, including, but not limited to, the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. The public educational campaign shall include relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters. All educational materials must be available in alternative formats and mediums to ensure that they are available to persons with disabilities.

(j) The Division of Emergency Management and the Department of Education shall coordinate with the Agency For Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

Section 3. This act shall take effect July 1, 2006.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF  
THE CITY OF MIAMI BEACH, FLORIDA, URGING GOVERNOR  
JEB BUSH TO VETO HOUSE BILL 603 WHICH PREEMPTS  
THE STRICTER REQUIREMENTS IN MIAMI-DADE COUNTY  
ORDINANCE NO. 06-40 WITH REGARD TO THE PROVISION  
OF FUEL DURING A LOCAL STATE OF EMERGENCY.**

**WHEREAS**, motor fuels are an indispensable commodity, necessary for transportation and to provide emergency electrical power to serve hurricane victims, as well as rescue and law enforcement personnel, during emergency conditions; and

**WHEREAS**, due to Hurricane Wilma's landfall in South Florida on October 24, 2005, a power shortage was experienced which rendered inoperable a very large percentage of gas stations in the region; and

**WHEREAS**, the protection of the Miami Beach community and, indeed, all of South Florida, requires that gas stations provide for an uninterrupted supply of alternate power sufficient to operate fuel pumps during times of emergency and need; and

**WHEREAS**, on March 23, 2006, Miami-Dade County passed Ordinance No. 06-40 requiring emergency response plans for all gas stations and for the alternate provision of fuel during a local state of emergency; and

**WHEREAS**, Ordinance No. 06-40 will be preempted by House Bill 603 which has been approved by the Florida Legislature and is being submitted to Governor Jeb Bush for signature; and

**WHEREAS**, House Bill 603, among other things, requires only that owners of 10 or more gas stations maintain at least one generator, which would be shared by the owner's other gas stations, to provide an alternate power source to operate fuel pumps; and

**WHEREAS**, the measures set forth in Miami-Dade County Ordinance No. 06-40 are essential to the protection and safety of our community in the event of emergency conditions created during power outages and states of emergency associated with hurricane seasons; and

**WHEREAS**, the Mayor and City Commission of the City of Miami Beach, Florida, oppose House Bill 603 and urge its veto by Governor Jeb Bush.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that Governor Jeb Bush is hereby urged to veto House Bill 603.

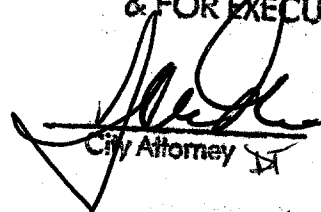
PASSED and ADOPTED this \_\_\_\_\_ day of May, 2006.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
City Attorney ☒

8/9/06  
Date



# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager  
FROM: Luis R. Garcia, Jr., Commissioner *RB*  
DATE: May 8, 2006  
SUBJECT: Agenda item for May 10, 2006

Please place for discussion on the May 10, 2006 Commission meeting agenda, a progress report on the Condominium Taskforce committee, and to extend the life of the committee.

If you have any questions, please feel free to contact my secretary, Sandra Meyer at x 6765.

LRG/sm

attachments






# MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

## MEMORANDUM

TO: Jorge M. Gonzalez, City Manager  
FROM: Commissioner Matti H. Bower   
DATE: May 10, 2006  
SUBJECT: **Agenda Item – Ad Hoc Condominium Reform Taskforce Progress Report.**

Please place on May 10, 2006 Commission Agenda an item for discussion regarding Ad Hoc Condominium Taskforce Progress Report.

I have attached the Memorandum with said Progress Report.

I thank you in advance for your cooperation. If you have any questions please do not hesitate to contact me or my Aide, Yvonne at extension 6091.

MHB/yws



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Ad Hoc Condominium Reform Taskforce

DATE: May 10, 2006

SUBJECT: **AD HOC CONDOMINIUM REFORM TASKFORCE PROGRESS REPORT**

### **Background**

The Ad Hoc Condominium Reform Task Force was authorized by the City Commission at the December 7, 2005 Commission Meeting.

The Taskforce is composed of 14 members, and includes co-chairs Commissioners Luis R. Garcia, Jr. and Matti H. Bower as well as two members appointed by each member of the City Commission.

The first meeting of the Taskforce took place on Tuesday, February 7, 2006, and the Taskforce established its meeting schedule as every other Tuesday thereafter.

### **Recommendations to the City Commission**

At the May 2, 2006 meeting, the Taskforce voted to provide the City Commission with a progress report. Following please find the major actions taken by the Taskforce since its inception:

- **FEBRUARY 7, 2006**

The Taskforce voted to request the City Commission direct the City's lobbying efforts to urge the Legislature to strengthen the Condominium Act by strengthening the disclosure requirements for condominium conversions, under Florida Statute 718.616.

The Taskforce adopted the recommendations made by City Attorney's Office in the January 23, 2006 memorandum to the City Commission (paragraph C, 4. a, b, c, d e, and f). The memorandum is attached for your information and review.

- FEBRUARY 21, 2006

The Taskforce voted to request that the City Commission direct the City's lobbying efforts to include 7 additional items to the disclosures required in Florida Statute 718.616. These 7 items are as follows:

- 1-outstanding municipal code (building, use, etc.) violations on the premises
- 2-date of 40 year recertification requirement
- 3-accounting of the status of the capital replacement and repair reserve fund
- 4-current capital contracts in effect
- 5-any litigation respecting the premises
- 6-listing of all outstanding municipal or contractor liens
- 7- any current approved municipal occupational license and use for the premises

The Taskforce also voted to request the City of Miami Beach require a 20 year recertification instead of a 40 year recertification.

- March 14, 2006

At the March 14<sup>th</sup> meeting, the Taskforce discussed what provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas. The City Attorney's Office was directed to opine as to the best way to accomplish this.

- March 21, 2006

The Taskforce held a short meeting in order to host and attend the State Ombudsman's free workshop on Condo Owner's Rights and Responsibilities, which was televised on MBTV/CH 77.

- April 4, 2006

Taskforce discussed temporary certificates of occupancy (TCO's) and courtesy noticing of violations.

- April 18, 2006

Meeting cancelled due to lack of quorum.

- May 2, 2006

The Taskforce voted to request the City Attorney's Office draft an ordinance that would make it compulsory through the City Code for condominium associations to notify unit owners of code violations in common areas, and provide an enforcement mechanism to accomplish this.

The Taskforce also requested that opinions and recommendations be issued in writing prior to meeting from both the Administration and the Attorney. In addition, it was requested that members of both offices be present at each meeting.

The Taskforce voted to request that the Administration change its noticing procedures for noticing condominium associations and unit owners of violations in common areas, to include posting violations regardless of whether the condominium association accepts or receives the notice from the City.


The Taskforce voted to request that the Administration to send courtesy notices to all unit owners when there is a violation in a common area. Commissioner Bower requested that the Administration review which violations should trigger the courtesy noticing procedure.


The Taskforce voted to change the composition of the Taskforce to alternate chairmanship between Commissioner Garcia and Commissioner Bower. Under this scenario, one of the Commissioners would serve as a non-voting observer. This would alternate every other meeting as noted above.

**CITY OF MIAMI BEACH  
OFFICE OF THE CITY ATTORNEY**

**MEMORANDUM**

TO: Mayor David Dermer  
Members of the City Commission  
Jorge Gonzalez, City Manager

FROM: Murray H. Dublin   
City Attorney

Debora J. Turner   
First Assistant City Attorney

SUBJECT: **The Jurisdiction of Local Governments under the Florida Condominium Act**

DATE: January 23, 2006

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Pursuant to the request of Mayor David Dermer at the December 7, 2005 Commission meeting, the following memorandum was prepared to address questions concerning the jurisdiction of the City to enact reforms in the area of condominium conversions. Section A provides a general legal analysis of applicable preemption and conflict issues, Section B addresses the specific limitations of local governments under the Florida Condominium Act, and Section C proposes possible solutions given the limited parameters of local government action in this area.

**A. IN GENERAL: PREEMPTION AND CONFLICT ISSUES**

Legislation may be enacted concurrently by both state and local governments in areas not preempted, either expressly or implied, by the state, and as long as the local concurrent legislation does not conflict with state law. City of Miami Beach v. Rocio Corp., 404 So. 2d 1066, 1070 (Fla. 3<sup>rd</sup> DCA 1981)<sup>1</sup>. Preemption by the state need not be explicit, so long as it is

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<sup>1</sup> In Rocio, the Third District, interpreting the 1979 Florida Condominium Act, which pre-dated the Roth Act (Part IV of Chapter 718 entitled "Conversions to Condominium"), found that although the 1979 version of the Act did not expressly, or by implication, preempt the subject of condominium conversion to state government, a City of Miami Beach ordinance conflicted with state law because conduct permitted by the State was not allowed by the City ordinance via the imposition of a supplementary burden (i.e., a 90 day moratorium on conversions). Therefore, the City's ordinance was enjoined from enforcement. Subsequently, the State Legislature addressed the problem when it enacted the Roth Act. That Act gave counties the authority to enact legislation to provide for lease extensions when shortages in rental units were due to condominium conversions. Both Dade and Broward Counties enacted such limited legislation in 1980. See § 17-01, Miami-Dade County Code; §§ 5-299 thru 5-301, Broward County Code.

clear that the legislature has clearly preempted local regulation of the subject.” City of Miami v. Wellman, 875 So. 2d 635, 640. (Fla. 3d DCA 2004). For example, courts may “imply” preemption when “the legislative scheme is so pervasive as to evidence an intent to preempt the particular area and where strong public policy reasons exist for finding an area to be preempted by the Legislature.” Tallahassee Memorial Regional Medical Center, Inc. v. Tallahassee Medical Center, Inc., 681 So. 2d 826, 831 (Fla. 1<sup>st</sup> DCA 1996) (citing Tribune Co. v. Cannella, 458 So. 2d 1075 (Fla. 1984)).<sup>2</sup> Moreover, preemption may not completely bar a local government from regulating on a subject, but may exist only as to narrow topics within a broader topic of a state law. See Phantom of Clearwater v. Pinellas County, 894 So. 2d 1011, 1019-1021 (Fla. 1<sup>st</sup> DCA 2005) (although county was not preempted entirely from legislating in area of fireworks, some aspects of state law arguably preempted county and certain penalty provisions of county ordinance were found to be in conflict with state law).

## **B. THE FLORIDA CONDOMINIUM ACT LIMITS LOCAL GOVERNMENT REGULATION**

Under the current version of Florida Condominium Act contained in Chapter 718 of the Florida Statutes, extensive and comprehensive regulations for condominiums and conversions are provided. Although not entirely preempting local regulations in this area, the Act only authorizes local government to act in certain limited areas. For example, Section 718.606(6) allows counties to enact legislation to extend rental agreements where there is a “grave housing emergency;” Section 718.507 provides that local building and zoning laws must not discriminate as to the condominium form of ownership and must apply equally to all buildings and improvements of the same kind;<sup>3</sup> and Section 718.616(4) requires a developer to file, with its disclosure, a letter issued by a municipality which acknowledges compliance with the applicable zoning requirements. The Act does not specifically authorize local governments to enact legislation which would be more restrictive than the State’s requirements.<sup>4</sup> Moreover, in 1998, the Florida Legislature enacted Section 718.621 which specifically authorized the Division of Florida Land Sales, Condominiums, and Mobile Homes (the “Division”) to promulgate rules

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<sup>2</sup> “If there is any doubt as to the extent of a power attempted to be exercised which may affect the operation of a state statute, the doubt is to be resolved against the ordinance and in favor of the statute.” Wellman, 875 So. 2d at 640 (citing Rocio, 404 So. 2d at 1069 (Fla. 3d DCA 1981)).

<sup>3</sup> See Lifter v. Metropolitan Dade County, 482 So. 2d 479 (Fla. 3d DCA 1986) (county zoning ordinance requiring notice from subdividers of hotels and motels of continued compliance with density and parking requirements did not conflict with Condominium Act).

<sup>4</sup> Examples of state laws that have expressly allowed local government to enact more restrictive laws include Section 553.73(4)(b) of the Florida Building Code which authorizes local governments to adopt “more stringent” technical provisions “than those specified in the Florida Building Code.” See also GLA and Assoc.s, Inc. v. City of Boca Raton, 855 So. 2d 278 (Fla. 4<sup>th</sup> DCA 2003) (city ordinance providing stricter setback requirements not preempted by state Shore Preservation Act where Act expressly authorized municipalities to impose setback requirements “equal to, or more strict than” the Act).

concerning condominium conversions.

For all of the foregoing reasons, local governments are limited in their ability to regulate condominium conversions and may be precluded from adopting legislation that would impose stricter condominium conversion requirements.<sup>5</sup> Moreover, regardless of the extent to which local governments may be preempted under the Condominium Act, local regulations concerning condominium conversion requirements cannot be adopted that would conflict with state law. See Pinellas County; Rocio.

In view of the foregoing, the following local solutions may be explored to address concerns with regard to condominium conversions and to provide additional safeguards to the public

### **C. PROPOSED SOLUTIONS TO CONDOMINIUM CONVERSION CONCERNS**

#### **1. Adopt Stricter Building Code Requirements**

Amendments to the City Code could be considered that would apply evenly to all buildings on Miami Beach. The building recertification process for historic buildings is currently going through the Committee process. This proposal would require all buildings older than 40 years to be recertified every 5 years.

#### **2. Expand Content of Municipal "Zoning Letter"**

Rudolph Prinz, Bureau Chief for the Standards and Registration Division of the Department of Business and Professional Regulation, has suggested that a zoning "letter," required to be issued by a municipality pursuant to Section 718.616(4), Fla. Stat., can provide other information, in addition to that regarding "compliance with applicable zoning requirements". In such zoning "letter," a municipality can notify the State of any problems or special consideration which should be given to a particular conversion application because the condition of the building may not be fully or accurately reflected in the architect or engineer's report. As explained by Mr. Prinz, a municipality's "zoning letter" may be used, and has been used, as an opportunity to advise the State of concerns which can then be addressed at the State level and which could trigger the State to require "other" information pursuant to Section 718.502(5), Fla. Stat., in the developer's offering statement. Specifically, Section 718.502(5) states that "[i]n addition to those disclosures described by s.s. 718.503 and 718.504, the Division is authorized to require such other disclosure as deemed necessary to fully or fairly disclose all aspects of the offering."

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<sup>5</sup> The General Counsel for the Department of Business and Professional Regulation, concurs with our concern relative to the adoption of legislation that would impose stricter restrictions on condominium conversions as such may be preempted by, or conflict with, state law.

### 3. Public Education and Notification

The City's communication with Condominium residents can be expanded with regard to City-issued code violations. Efforts could include, community workshops, improved website communications, and visible posting of condominium violations.

### 4. Urge the Legislature to Strengthen the Condominium Act

A local government can lobby its legislators to make specific changes to Chapter 718. For example, disclosure requirements could be strengthened by the State to address concerns that: a) sufficient information is not currently provided on the report required under Section 718.616; b) the report that is submitted should go through a more thorough analysis or review when received by the State; c) condominium documents should be required to reflect restrictions on unit sizes and uses; require that all purchasers have this disclosed to them in writing and that they execute an acknowledgement to such restrictions; d) disclosure be provided in writing by realtors, registered agents, and/or other professionals involved in marketing and selling hotel/condominium units to prospective purchasers of any and all restrictions and code violations; e) encourage the State to create the statutory provisions to allow conduit financing through counties and municipalities to provide for interest free loans to condominiums to correct significant building, fire, and/or life safety violations at no risk to the participating local government (similar to Industrial Revenue Bonds); and f) encourage the State to create a grant program to partially offset the costs of building, fire, and life-safety related significant renovations for older structures.

### 5. Amend the City's Occupational License Code Provisions

Provisions could be considered that would require condominium associations, at license renewal, to provide confirmation that all unit owners have been provided notice of all code violations in the building's common areas.

### 6. Modify the City's Lien Search and Violation Search Request Forms

These forms could be modified to encourage the requestor to seek information on common areas in a building in addition to a prospective unit. (This has already been implemented).

### 7. Create a Community-Based Task Force

A task force could discuss the foregoing ideas and/or generate additional ideas to recommend to the City Commission. (A Commission Task Force has already been created).



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